

## **REMARKS**

Claims 1 – 7 and 15 – 17 are in the application. Claims 1 – 7 and 15 – 17 were previously presented and claims 8 – 14 have been canceled. Claims 1, 15, and 16 are the independent claims herein. No new matter has been added.

Reconsideration and further examination are respectfully requested.

### **Claim Rejections – 35 USC § 102**

Claims 1 – 7 and 15 – 17 were rejected under 35 U.S.C. 102(b) as being anticipated by Diacakis et al. U.S. Publication 2002/0116336, hereinafter “Diacakis”. This rejection is traversed.

Applicant notes that representative claim 1 relates to a method including interfacing an identity oriented context application that represents a context of an identity based on an availability or state of the identity with a device oriented context application that determines an availability or state of a device associated with the identity, where the identity is a person or a group of persons, determining, by said device oriented context application, a device oriented context for a specific device associated with the identity, wherein said device oriented context provides an availability status of said specific device, determining, by said identity oriented context application, an identity oriented context for said identity, wherein said identity oriented context provides an availability status of said identity, and determining an availability rule associated with said identity, the availability rule governing when or how the identity is available, when or how the identity can be contacted by other identities, how or when the identity can be contacted based on the identity oriented context of the identity, and how or when the identity can be contacted based on the device oriented context of the identity. The method of claim 1 further includes determining, for a specific time, a true availability of said identity based, at least in part, on said determined device oriented context for said specific device associated with said identity, said determined identity

oriented context and said determined availability rule at said specific time, and providing data indicative of said true availability of said identity.

Clearly, Applicant claims interfacing an identity oriented context application with a device oriented context application. The claimed identity oriented context application represents a context of an identity based on an availability or state of the identity, whereas the claimed device oriented context application determines an availability or state of a device associated with the identity. That is, the claimed “identity oriented context application” is related or referenced (i.e., oriented) to an availability or state of an identity, whereas the claimed “device oriented context application” is related or referenced (i.e., oriented) to an availability or state of a device.

Applicant notes that the availability of a device associated with the identity is provided by the device oriented context application, as stated in the Specification at paragraph [0024] where Applicant discloses, “[A]n identity may have one or more associated devices. ...Each device may have an associated device context. ... Context for a device may describe the work or non-work state, and/or the availability or non-availability state, that the device is in.”

Thus, it is clear that the claimed “device oriented context application” provides an availability of a device associated with the identity. The claimed “device oriented context application” does not provide an availability or presence of an individual.

Applicant respectfully notes that claims 15 (reciting an article of manufacture) and claim 16 (reciting an apparatus) are worded similar to claim 1 regarding the claimed device oriented context application.

Applicant respectfully submits that the cited and relied upon Diacakis does not disclose or suggest, at least, the claimed device oriented context application, and mapping a new device oriented context to the identity oriented context.

Applicant notes the Examiner maintains the rejection of the claims on the basis and interpretation that Diacakis’ disclosed presence and availability (P&A) management

server 12 related explicitly to determining the presence and availability of an individual is equivalent to the claimed “device oriented context application”, as stated in the Final Office Action dated July 29, 2009 (hereinafter, FOA) at pages 2 – 3. However, the Office’s characterization of Diacakis is mistaken and factually unsupported by the Diacakis disclosure.

Applicant submits that Diacakis factually discloses a P&A management server 12 that includes “a presence detection engine 18 and an availability management engine 20”. (Diacakis, para. [0024], ln. 7 – 10) The presence detection engine 18 and the availability management engine 20 together form the P&A management server 12 and cooperate to provide the functionality of determining the presence and availability of an individual to the P&A management server 12. Applicant notes that Diacakis states throughout the entirety of its disclosure that the purpose and function of the disclosed methods and systems therein is to determine the presence and availability of an individual (i.e., identity or person).

Applicant reiterates Diacakis is related specifically to an *individual’s* presence and availability. For example, Diacakis discloses,

[0026] As used herein, the term “presence” is defined as the ability of an individual to access a particular communications network. For example, if a person is near a landline telephone or wireless telephone that is switched on, that person is “present” on a telephone network, i.e., the person is able to use the telephone network to communicate with other people also on the network. Conversely, if a person is not near a landline telephone or wireless telephone, or the wireless telephone is switched off, then that person is not present on a telephone network, and thus unable to communicate with others on the telephone network. Similarly, if a person uses an instant messaging (IM) application at a given point in time, the person is present on that instant messaging network.

[0027] In addition, as used herein the term “availability” is defined as the willingness of an individual who is present on one or more communications networks to be reached by one or more persons. Following the telephone network example above, if a person is near a landline or wireless telephone and has the intention or willingness to answer the phone when a particular person calls, the person is not only present but available on the telephone network. However, if the person is

unwilling or unable to answer either phone when it rings, although present, the person is not available. (emphasis added)

Thus, it is clear that Diacakis explicitly and exclusively defines the terms “presence” and “availability” in the context of “the ability of *an individual* to access a particular communications network” and “the willingness of *an individual* who is present on one or more communications networks to be reached by one or more persons”, respectively. That is, both the presence detection engine 18 and the availability management engine 20 are explicitly defined by Diacakis in relation to, with reference to, and “oriented” to an individual. Neither the Diacakis defined presence detection engine 18 nor the availability management engine 20 are disclosed in relation to, with reference to, and “oriented” to a device. Therefore, it is clear that Diacakis fails to disclose or suggest the claimed aspect of “device oriented context application that determines an availability or state of a device associated with the identity”.

Furthermore, any attempt to expand the meaning of the terms “presence” and “availability” beyond the specific definitions provided by Diacakis would be impermissible and counter to the plain meaning and scope of the Diacakis reference.

Diacakis’ presence detection engine 18, as explicitly disclosed and defined by Diacakis, provides a presence of an individual. The fact that the individual may be present on a network or a device does not alter the fact that Diacakis provides a presence of the individual. It is the presence of the individual that is determined by Diacakis, not the presence or availability of the network or device.

Diacakis also discloses,

[0038] FIG. 4 is a diagram of the P&A management server 12 according to one embodiment of the present invention. As illustrated in FIG. 4, the server 12 includes a presence detection engine 18 and an availability management engine 20. The presence detection engine 18 may determine an individual's presence upon particular networks based on various inputs, as described further hereinbelow. The presence detection engine 18 may transmit the presence information to the availability management engine 20, which in turn may determine the individual's availability based on the presence information as well as additional information, such as the individual's situation and defined rules and

preferences. The determined availability information may then be transmitted to subscribers of the individual's availability information via the network 16, as described previously.

[0040] As illustrated in FIG. 4, the presence detection engine 18 may receive various inputs to determine, to the extent possible, the individual's presence. One type of input that the presence detection engine 18 may use to help determine the individual's presence is time-based input 40. For example, based on time of day information and known scheduling/calendar information, the presence detection engine 18 may be able to determine an individual's presence. For example, if the individual had scheduled to be in his office from 9am to 5pm, the presence detection engine 18 may determine that during that time period the individual is present on the networks available to him in his office, which may be, for example, telephone and instant messaging. (emphasis added) (Diacakis, paragraphs [0038] and [0040])

Based on the *explicit* disclosure of Diacakis reproduced hereinabove, it is clear that the P&A server 12 determines the presence of an individual based on the presence detection engine's determination of the individual's presence on a network and the availability management engine's determination of the individual's availability based on the individual's presence information from presence engine 18 and additional information about the individual. Without question, Diacakis' presence detection engine 18 provides presence information about the individual. The presence information about the individual from the presence detection engine 18 is used by the availability management engine 20, in combination with the individual's rules and preferences, to determine the individual's availability. The individual's rules and preferences may determine or control how the individual's presence information from the presence detection engine is classified or characterized.

Therefore, it is seen that both the presence detection engine 18 and the availability management engine 20 using individual presence information from the presence engine 18 relate to a presence (i.e., the ability of an individual to access a particular communications network) and availability of an individual. Contrary to the assertions in the FOA, there is no disclosure or suggestion that the asserted Diacakis presence detection engine 18 is the same as, analogous to, or equivalent to the claimed "device oriented context application that provides an availability of a device".

Applicant also notes that the Office Action appears to admit that the Diacakis presence detection engine 18 is directed to the availability of an individual (and not the availability of a device) since the Office Action states, “presence detection engine interpreted as a device oriented context application *since it determines user’s presence on particular devices*” at page 2, paragraph 6. While Applicant disagrees with the Examiner’s conclusion that the presence detection engine is or should be interpreted as a device oriented context application, Applicant agrees with the statement that “it determines *user’s presence* on particular devices” (where “it” refers to the presence detection engine) is accurate based on the explicit disclosure of Diacakis. That is, Applicant agrees with the factual statements by the Examiner (i.e., “the presence detection engine determines user’s presence”) but disagrees with the Examiner’s conclusion based on those factual underlying statements.

Applicant reiterates Diacakis provides numerous examples of the presence detection engine 18 providing the individual’s presence on different networks. Applicant incorporates the arguments of record related to Diacakis’ extensive disclosed examples of the identity (i.e., individual) oriented application therein – the presence detection engine 18. Accordingly, Applicant will not repeat the citations to Diacakis at paragraphs, [0034], [0038], and [0040] – [0044].

Applicant submits that both the presence detection engine 18 and the availability management engine 20 disclosed by Diacakis relate to the presence and availability of an individual. No availability of a device is disclosed as being determined by Diacakis. That is, Diacakis fails to disclose or even suggest the claimed device oriented context application.

Applicant respectfully submits that claims 1, 15, and 16 are not anticipated by Diacakis. Applicant further submits that claims 2 – 7 and 17 are also patentable over Diacakis for depending from an allowable base claim.

Therefore, Applicant respectfully requests the reconsideration and withdrawal of the rejection of claims 1– 7 and 15 – 17 under 35 USC 102.

## CONCLUSION

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-5985.

Respectfully submitted,

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Date

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